IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3238 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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BISHOP PAUL CHAUHAN

Versus

REV.MAGANLAL MANGALDAS GAMETI

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Appearance:

1. Special Civil Application No. 3238 of 1992

MR MC BHATT for Petitioner No. 1-5

MR CJ VIN for Respondent No. 1

MR MUKESH R SHAH for Respondent No. 1

MR PS CHAMPANERI for Respondent No. 2

MR MAYUR R SHAH for Respondent No. 2

MS MAKWANA for Respondent No.1-2

MR HC PATEL, Ld. AGP for Respondent No. 3-7

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CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 14/08/2002

ORAL JUDGEMENT

1. This petition is of 1992 and at the time when the petition was admitted, the interim stay against the operation of the order passed by the Jt. Charity Commissioner was granted. As a consequence thereof, the orders passed by the Jt. Charity Commissioner which are under challenge in this petition have operated from 1992 till today and the persons who were authorised to operate the bank account must have managed the affairs of the trust. Since the orders which are passed by the Charity Commissioner have operated for a period of 10 years, I am of the view that if the orders are upset at this stage, it may result into large number of other complications regarding the operation of the bank account by the persons who are permitted to operate the bank account by the Charity Commissioner.

2. Heard Mr.Prajapati, learned Counsel for the petitioners, Mr.H.C.Patel, learned AGP for respondents No.3 and 7 and Ms.Makwana, learned Counsel for respondents No.1 and 2.

3. The present petition is preferred by the petitioners against the orders Annexures "E", "H", "K", and "L" passed by the Jt. Charity Commissioner, Baroda Camp, Baroda in purported exercise of power under Section 41A of the Bombay Public Trust Act, whereby certain persons were permitted to operate the bank account of the Trust and incidental orders were also passed for the said purpose.

4. At this stage Mr.Prajapati for the petitioners has submitted that even if the orders passed by the Jt. Charity Commissioner are maintained pending the petition, while operating the bank account pursuant to the order passed by the Jt. Charity Commissioner, the persons concerned have committed illegality and irregularities in managing the affairs of the Trust and, therefore, he submits that liberty may be kept open to the petitioners to move appropriate application before the Jt. Charity Commissioner for pointing out such illegality and irregularities and the Jt Charity Commissioner may be directed to decide such application within a stipulated time limit.

5. Mr.H.C.Patel, learned AGP appearing for the Jt. Charity Commissioner submits that he has no instruction regarding any illegality or irregularities committed by the persons concerned while managing the affairs of the Trust pending the petition. However, he submits that if such an application is made by the petitioners the same

can be decided by the Jt. Charity Commissioner within a reasonable time which may be deemed appropriate by this Court. Mr.Patel submits that he has no information as to whether Misc. Application No.4/1991 is finally disposed of by the Jt. Charity Commissioner or not and he submits if such application is still pending before the Jt. Charity Commissioner, the same may be directed to be disposed of within a stipulated time limit.

6. Considering the above, I am of the view that the orders passed by the Jt. Charity Commissioner which are under challenge in this petition are not disturbed, but at the same time the petitioners will be at liberty to move appropriate application under the Bombay Public Trusts Act to the Jt. Charity Commissioner for pointing out the alleged irregularities and illegality committed by the persons concerned while acting pursuant to the order passed by the Jt. Charity Commissioner and if such application is submitted within a period of one month from today, the same shall be decided by the Jt Charity Commissioner within a period of three months from the date of receipt of the application, after giving opportunity of hearing to all concerned. It is further directed that if Misc. Application No.4/1991 is pending before the Jt. Charity Commissioner, Baroda, the same may also be decided finally by the Jt. Charity Commissioner as early as possible, preferably within a period of three months from the date of receipt of the order of this Court. The petition is disposed of in terms of the aforesaid directions. Rule made absolute accordingly.

14-8-2002 (Jayant Patel, J.)

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